

The CASE of Mr. John Starkey.

K. Gerard (Charles) First Earl of Macclesfield

HE being one of the *Grand Jury* for the County Palatine of *Chester*, at the *Grand Sessions* or *Affizes* held for that County in Anno 1683; did with Sir *Thomas Grosvenor* Bar. their Foreman, and the rest of the *Grand Jury*, upon Oath make a Presentment to that Court of the Fears and Apprehensions in their County, occasioned by unusual Meetings of great numbers of People, providing themselves with Stores of Arms, and riding and going armed about the Country, to the terror of the King's People, and disturbance of the publick Peace. Whereupon the said *Jury* prayed the Court, That Security for the Peace might be given by the Earl of *Macclesfield* and others therein named: For which Presentment the said Earl brought his Action against Mr. *Starkey*, grounded upon the Statute de *Scandalis Magnatum*; and to this he Pleaded, *That he did nothing, but as a Grand-Jury Man, in pursuance of the Articles given them in Charge, and according to their Evidence against the said Earl, and denied that he was Guilty of the Contrivance or Publication of this Presentment in any place, or in any other manner, than as one of the Grand Jury in the Court of Grand Sessions.* Which Cause depended long in the Court of *Exchequer*, upon the Earl's *Demurror* to this Plea; and after several Arguments therein, Judgment was given for the Defendant *Starkey*; to Reverse which Judgment, the Earl hath Sued his *Writ of Error*.

The Judgment in the *Exchequer* was, by the unanimous Opinion of the whole Court, given for the Defendant, in regard the Matters contained in the Presentment were Matters proper for the *Grand Jury* to enquire of, and present, to secure the Peace of the Country, and good ground to require Sureties of the Peace. That the *Grand Jury* were the proper persons to enquire of and present such Actions; and that it was done in a proper Judicature at the *Grand Sessions*, where the Judges had proper Connizance of such Matters.

That in such Cases *Grand-Jury* Men have ever been held to be under the Protection of the Law, and not liable to Suits for their Presentments, being in a Court of Justice, and in order to preserve the publick Peace.

And whether the Fact were true or false will not alter the Case, being according to the Evidence given before them; and were the Law otherwise, it would deter all Men of Quality and Estate from Serving their Country with Freedom and Chearfulness, if their Misinformation from others, or their own Mistakes in what they present only as *Grand-Jury* Men, should subject them to private Actions.

This Judgment given for Mr. *Starkey* was grounded upon good Resolutions, formerly given in Cases of the like nature; and therefore it is hoped this Judgment shall stand for Protection of *Grand-Jury* Men, in what they do in Execution of that Charge, and to prevent the Multiplicity of Actions which will otherwise ensue, not only against this Defendant, by all others required to find Sureties of the Peace upon this Presentment, but also against every one of that *Grand Jury*, and the *Grand-Jury* Men of other Counties in like Cases.



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